

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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WILLIE JAMES SMITH JR.,

Petitioner,

v.

Sheriff DENNIS SMITH,  
Administrator BARB REID,  
Sgt ORMSIN,  
Officer BORGARO,  
Officer GRIMS and  
Sgt JOHN DOE,

Respondents.  
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ORDER

09-cv-41-bbc

Petitioner Willie James Smith, a prisoner at the Eau Claire County jail in Eau Claire, Wisconsin, has submitted a proposed complaint. He asks for leave to proceed in forma pauperis. Because petitioner is a prisoner, he is subject to the 1996 Prisoner Litigation Reform Act. This means that before this court may decide whether he can proceed with his complaint in forma pauperis, petitioner will have to make an initial partial payment of the filing fee. From the trust fund account statement petitioner has submitted, I calculate his initial partial payment to be \$2.70. Also, he must pay the remainder of the fee in monthly

installments even if his request for leave to proceed is denied. If petitioner does not have the money to make the initial partial payment in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. This does not mean that petitioner is free to ask prison authorities to pay *all* of his filing fee from his release account. The only amount petitioner must pay at this time is the \$2.70 initial partial payment. Before prison officials take any portion of that amount from petitioner's release account, they may first take from petitioner's regular account whatever amount up to the full amount petitioner owes. Petitioner should show a copy of this order to prison officials to insure that they are aware they should send petitioner's initial partial payment to this court.

#### ORDER

IT IS ORDERED that petitioner is assessed \$2.70 as an initial partial payment of the \$350 fee for filing this case. He is to submit a check or money order made payable to the clerk of court in the amount of \$2.70 on or before February 16, 2009. If, by February 16, 2009, petitioner fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn this action voluntarily. In that event, the clerk of court

is directed to close this file without prejudice to petitioner's filing his case at a later date.

Entered this 26<sup>th</sup> day of January, 2009.

BY THE COURT:

/s/

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BARBARA B. CRABB

District Judge